

REMARKS

The Examiner is thanked for the due consideration given the application. The specification has been amended to insert headings.

Claims 1-8 and 12-16 remain in this application. The claims have been amended to improve the language in a non-narrowing fashion.

Rejection Under 35 USC §112, Second Paragraph

Claims 1-8 and 12-16 have been rejected under 35 USC §112, second paragraph as being indefinite. This rejection is respectfully traversed.

The Office Action asserts that claim 1 does not recite to what the composition is being applied. Claim 1 has been amended to clarify that the composition is being applied to the skin.

The Office Action asserts that the terms "low degree of polymerization" and "high degree of polymerization" in claim 12 are vague because these terms appear not to be defined in the specification. However, it is noted that the full terminology is "*oligosaccharide fraction with a high degree of polymerization and free uronic acids, and a mono- and oligosaccharide fraction of a low degree of polymerization.*" The fraction with the low degree of polymerization is thus defined as containing monomers (the lowest degree of polymerization) whereas the fraction with the high degree of polymerization would be recognized by one of

skill as being free from monomers. The limitation *in toto* is thus clear on its face.

The terminology of claim 16 has been amended in light of the Examiner's observation.

The claims are thus clear, definite and have full antecedent basis.

This rejection is believed to be overcome, and withdrawal thereof is respectfully requested.

Rejection Under 35 USC §112, First Paragraph

Claim 12 has been rejected under 35 USC §112, first paragraph as failing to comply with the written description requirement. This rejection is respectfully traversed.

The Office Action again points to the fractions recited in claim 12 and queries the degree of polymerization. But as discussed above, the limitations *in toto* indicate that the inventor(s) were in possession of the present invention when the application was filed.

This rejection is believed to be overcome, and withdrawal thereof is respectfully requested.

Art Rejections

Claims 1-8, 12, 13, 15 and 16 have been rejected under 35 USC §102(b) as being anticipated by DZIENGEL (U.S. Patent 3,170,916) as evidenced by VAN der HAAR (Saponins IX).

Claim 14 has been rejected under 35 USC §103(a) as being unpatentable over DZIENGEL as evidenced by VAN der HAAR, in view of GROLLIER (U.S. Patent 4,800,080).

These rejections are respectfully traversed.

The present invention pertains to a specific cosmetic treatment directed at improving the barrier effect on skin. The present invention uses a particular active ingredient: a **chestnut** meal extract.

DZIENGEL pertains to obtaining saponin from **horse chestnut** extracts. A **horse chestnut** extract is different from the **chestnut** extract of the present invention.

A horse chestnut is *Aesculus hippocastanum* L., which is a part of the family *Hippocastaneae*. See, e.g., http://www.mayoclinic.com/health/horse-chestnut/NS_patient-horsechestnut.

In contrast, the present invention utilizes an extract of the chestnut (also called the sweet chestnut or Spanish chestnut) having the botanical name of *Castanea sativa*, which belongs in the family *Fagaceae*. See e.g., <http://en.wikipedia.org/wiki/Chestnut>.

Chestnut and horse chestnut being very different species, the present invention is fundamentally different from DZIENGEL.

Moreover, although DZIENGEL describes the use of horse chestnut extracts in cosmetic application, DZIENGEL does not

describe specifically treating dry skin by means of multiple actions.

Additionally, the extracts of the present invention do not contain saponins. As can be read in Wikipedia (see <http://en.wikipedia.org/wiki/Saponin>), saponins are a class of chemical compounds, one of many secondary metabolites found in natural sources, with saponins found in particular abundance in various plant species. Specifically, they are amphipathic glycosides grouped phenomenologically by the soap-like foaming they produce when shaken in aqueous solutions, and structurally by their composition of one or more hydrophilic glycoside moieties combined with a lipophilic triterpene derivative.

It is known that saponins are present in chestnuts, but because of their specific structure, saponins are poorly soluble in water. So saponins can't be in the extract of the present invention's extract, which is obtained via aqueous extraction.

The VAN der HAAR abstract merely discusses the content of saponin (which appears to define a hydrolysis product (via saponification) in this reference. No cosmetic application is taught or inferred in VAN der HAAR. VAN der HAAR is thus not relevant.

GROLLIER is turned to for teachings pertaining to dosage forms (creams, lotions). However, the teachings of GROLLIER do not address the deficiencies of DZIENGEL in light of VAN der HAAR discussed above.

DZIENGEL in light of VAN der HAAR thus do not anticipate a claimed embodiment of the present invention. DZIENGEL in light of VAN der HAAR in view of GROLLIER would not induce one of skill to produce a claimed embodiment of the present invention, and a prima facie case of unpatentability has thus not been made.

These rejections are believed to be overcome, and withdrawal thereof is respectfully requested.

Conclusion

The Examiner is thanked for considering the information disclosure statement filed November 15, 2005 and for making the references therein of record in the application.

Prior art of record but not utilized is believed to be non-relevant to the instant claims.

As no issues remain, the issuance of a Notice of Allowability is respectfully solicited.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Robert E. Goozner/
Robert E. Goozner, Reg. No. 42,593
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

REG/jr